



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable George W. Cox  
State Health Officer  
Texas State Board of Health  
Austin 2, Texas

Dear Sir:

Opinion No. 0-5970  
Re: Authority of the State Health  
Department to send patients  
in the infectious stage of a  
venereal disease to the Rapid  
Treatment Center in Albuquerque,  
New Mexico, for treatment and  
care?

Your letter of April 17, 1944, requesting the opinion of this department on the above subject reads as follows:

"The State Health Department is operating four Rapid Treatment Centers which are hospital facilities for the management and treatment of persons in the infectious stage of a venereal disease. These centers are located at El Paso, San Antonio, Mineral Wells and Corpus Christi and serve areas as indicated on the accompanying map. As you will note, there is no center serving the Panhandle section of Texas.

"There is a Rapid Treatment Center located in Albuquerque, New Mexico, and it is the closest facility to the part of Texas in question. I would like to get your opinion on the following matter:

"Provided it is agreeable with the State Health Officer of New Mexico, are there any legal restrictions which would prevent the Texas State Health Department sending patients in the infectious stage of a venereal disease to the Rapid

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Treatment Center in Albuquerque for treatment and care? Such patients are admitted to these centers by voluntary admission or by quarantine commitment signed by the health officer. Can a patient under quarantine in Texas be transported into New Mexico so far as our Texas laws are concerned?"

You have been advised by this department in Opinion No. 0-4736 that the State Health Officer is authorized to place a person in the infectious stage of a venereal disease under quarantine and to remove such person from one county to another for treatment; and later, in Opinion No. 0-5610, that the State Health Officer was authorized to co-operate with the Federal Government in the delivery of persons under quarantine to certain Federal controlled treatment centers. Your present question, however, relates to the authority of the State Health Officer to remove such infected person from this State to another state for treatment or to deliver such person held under quarantine to the authorities of another state.

From an examination of the authorities under which the Federal Government maintains the treatment centers referred to in your letter, we have failed to find any law that would prevent a person under quarantine in Texas in the infectious stage of venereal disease from voluntarily submitting to treatment in Albuquerque, New Mexico and the delivery of such person to the authorities of the State of New Mexico by the State Health Officer or his agent would not conflict with any Texas constitutional provision or statute.

However, the forcible removal from this State of persons held under quarantine, presents an entirely different situation. Our search has failed to reveal a statute or a constitutional provision which would authorize the deportation of a person in the infectious stage of venereal disease from within the boundaries of Texas to a sister state for treatment. Persons under this classification would not come under the extradition law as they are not fugitives from justice charged with a crime in the other state. In an almost unbroken line of decisions, both in Federal and State jurisdiction, the rule has been expressed that the surrender of a person in one state for delivery to another is prohibited. *Innes vs. Tobin*, 173 S.W. 291, affirmed by U. S. Supreme Court, 240 U.S. 127.

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Therefore, in the absence of express authority to so do, it is the opinion of this department that the deporting of a venereal patient, held under quarantine, from Texas to New Mexico for treatment, would be an illegal undertaking.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Harris Toler*  
Harris Toler  
Assistant

32) *E. J. Blackburn*  
3, 1944



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